



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,103	02/27/2002	Denis Boivin	GO32-001	4183
21567	7590	12/30/2003	EXAMINER	
WELLS ST. JOHN P.S. 601 W. FIRST AVENUE, SUITE 1300 SPOKANE, WA 99201			ROYAL, PAUL	
			ART UNIT	PAPER NUMBER
			3611	

DATE MAILED: 12/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/087,103

Applicant(s)

BOIVIN ET AL.

Examiner

Paul Royal

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 14-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8 and 9 is/are rejected.
- 7) ☐ Claim(s) 7 and 10-13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 14-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected endless track belt assembly, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 4.

### *Drawings*

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the sequence of lugs rows as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specifically, the sectional view shown in Figure 4 does not adequately show the transverse rows because the view places the rows in the same viewing plane.

3. The drawings are objected to because in Figure 4, feature 86 appears to be the second intermediate lug disclosed as element "84". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Double Patenting***

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

4. Claims 1-13 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-2, and 5-15 of co-pending Application No. 10/165,707.

This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2 ,5-6, 8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Tucker (US 6,129,426).

Tucker teaches an all-terrain vehicle comprising at least two track assemblies (14,16,18, 20) to support the all-terrain vehicle onto a ground surface, each one of said at least two track assemblies comprising:

a longitudinal endless track belt (82) provided with an inner surface provided with a plurality of inner lugs (86a, 86b, 86c, 86d) and an outer surface provided with a plurality of external lugs (88);

a mounting structure (44a, 44b) to mount said longitudinal endless track belt to said vehicle, wherein, when mounted to said mounting structure, said longitudinal endless track belt has a punctually localized surface contact with the ground surface;

wherein said mounting structure (44a, 44b) includes a track driving wheel (40) provided with equidistant teeth (50) contacting the inner surface of the endless track belt, said teeth being so located as to cooperate in a meshing engagement with said inner lugs of the endless track belt (82);

wherein said mounting structure (44a, 44b) further includes an inside idler wheel (54) and an outside idler wheel (62) in contact with said endless track belt (82), and at least one interconnecting arm (30a, 30b, 32a, 32b) between said track driving wheel (40) and said idler wheels (54,62);

wherein said track driving wheel is mounted to a hub (36) of the all-terrain vehicle.

For claim 2, note the longitudinal endless track belt has an overall transversal profile generally convex.

For claim 9, note each one of said inside idler wheel (54) and said outside idler wheel (62) includes a peripheral portion in contact with said internal surface of the endless track belt (82).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tucker, as applied to claim 2, in view of Forbes (6,626,258)

Tucker teaches tracked vehicle having the claimed limitations except wherein said plurality of external lugs form a lug arrangement comprising at least two successive transverse rows of lugs arranged in a staggered relationship and wherein said lug arrangement comprises a first row of lugs and a second row of lugs, said first row of lugs being arranged in a first sequence comprising a first lateral lug, a central lug and a second lateral lug; said second row of lugs being arranged in a second sequence comprising a first intermediate lug, a first external lug and a second intermediate lug.

Forbes teaches a track for a vehicle wherein a plurality of external lugs form a lug arrangement comprising at least two successive transverse rows of lugs arranged in a staggered relationship and wherein said lug arrangement comprises a first row of lugs (142a) and a second row of lugs (142b), said first row of lugs being arranged in a first sequence comprising a first lateral lug (FLL, see Examiner's annotated Figure 12), a

central lug (CL, see Examiner annotated Figure 12) and a second lateral lug (SLL, see Examiner's annotated Figure 12; said second row of lugs being arranged in a second sequence comprising a first intermediate lug (FIL, see Examiner's annotated Figure 12), a first external lug (FEL, see Examiner's annotated Figure 12) and a second intermediate lug (SIL, see Examiner's annotated Figure 12) to allow the vehicle to be easily banked or leaned.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the track vehicle of Tucker, as applied to claim 2, to include wherein said plurality of external lugs form a lug arrangement comprising at least two successive transverse rows of lugs arranged in a staggered relationship and wherein said lug arrangement comprises a first row of lugs and a second row of lugs, said first row of lugs being arranged in a first sequence comprising a first lateral lug, a central lug and a second lateral lug; said second row of lugs being arranged in a second sequence comprising a first intermediate lug, a first external lug and a second intermediate lug, as taught by Forbes, to allow the vehicle to be easily banked or leaned.

***Allowable Subject Matter***

7. Claims 7 and 10-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

for claim 7, the prior art does not show a track wheel including a first and second mounting plate mounted together by a bolt and spacer assembly;

for claims 10-13 the prior art does not show wherein said at least one interconnecting arm comprises an angled connecting element provided with a short arm having a free end to which said inside idler wheel is rotatably mounted and a long arm having a free end to which said outside idler wheel is rotatably mounted.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Grover teaches a automobile attachment. Lombard teaches a traction device. Skelton teaches a traction apparatus. Smith teaches an undercarriage. Celia teaches an attachment device. Jespersen teaches an all-terrain vehicle. Purcell et al. teaches a track suspension. Siorek et al. teaches a track tensioner. Yancey teaches a suspension mechanism. Svensson et al. teaches a vehicle track. Nagorcka teaches a suspension system for a tracked vehicle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Royal whose telephone number is 703-308-8570. The examiner can normally be reached on 8:30-4:30.



Art Unit: 3611

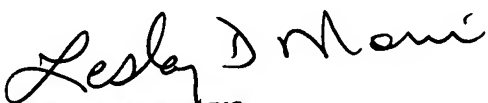
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



P. Royal  
December 14, 2003

Paul Royal  
Examiner  
Art Unit 3611



LESLEY D. MORRIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3800

